

House File 2464 - Introduced

HOUSE FILE 2464

BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO HSB 678)

A BILL FOR

1 An Act providing for the rebate of state sales and use tax to
2 the owner or operator of a raceway facility, and providing
3 penalties.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 423.2, subsection 11, paragraph b, Code
 2 2014, is amended by adding the following new subparagraph:
 3 NEW SUBPARAGRAPH. (7) Beginning the first day of the
 4 quarter following the effective date of this Act, transfer
 5 to the raceway facility tax rebate fund created in section
 6 423.4, subsection 11, paragraph "e", that portion of the
 7 sales tax receipts collected and remitted upon sales of
 8 tangible personal property or services furnished by retailers
 9 at a raceway facility meeting the qualifications of section
 10 423.4, subsection 11, that remains after the transfers
 11 required in subparagraphs (1) through (6) of this paragraph
 12 "b". This subparagraph is repealed June 30, 2025, or thirty
 13 days following the date on which an amount of total rebates
 14 specified in section 423.4, subsection 11, paragraph "c",
 15 subparagraph (4), subparagraph division (a) or (b), whichever
 16 is applicable, has been provided or thirty days following the
 17 date on which rebates cease as provided in section 423.4,
 18 subsection 11, paragraph "c", subparagraph (5), whichever is
 19 earliest.

20 Sec. 2. Section 423.4, Code 2014, is amended by adding the
 21 following new subsection:

22 NEW SUBSECTION. 11. a. For purposes of this subsection:

23 (1) "*Change of control*" means a change in ownership such
 24 that the fair that was the owner or operator on the effective
 25 date of this Act ceases to own a majority of the equity
 26 interests in the raceway facility.

27 (2) "*Fair*" means the same as defined in section 174.1.

28 (3) "*Owner or operator*" means a fair that is the owner or
 29 operator of a raceway facility and is a promoter of races.

30 (4) "*Population*" means the population based upon the 2010
 31 certified federal census.

32 (5) "*Raceway facility*" means a raceway facility located
 33 as part of a racetrack and entertainment complex and located
 34 on fairgrounds, as defined in section 174.1, in a city with a
 35 population of at least seven thousand but not more than seven

1 thousand five hundred residents, which city is located in a
2 county with a population of at least thirty-three thousand
3 but not more than thirty-three thousand four hundred fifty
4 residents, and which facility was placed in service before the
5 effective date of this Act.

6 *b.* The owner or operator of a raceway facility may apply to
7 the department for a rebate of the following:

8 (1) Sales tax imposed and collected by retailers upon
9 sales of tangible personal property or services furnished to
10 purchasers at the raceway facility. Notwithstanding the state
11 sales tax imposed in section 423.2, a sales tax rebate issued
12 pursuant to this subparagraph shall not exceed the amounts
13 transferred to the raceway facility tax rebate fund pursuant to
14 section 423.2, subsection 11, paragraph "b", subparagraph (7).

15 (2) (a) Sales or use tax upon the sales price of all
16 tangible personal property, or from services furnished to a
17 contractor, used in the fulfillment of a written contract with
18 the owner or operator if the property becomes an integral part
19 of the project under contract and at the completion of the
20 project becomes part of the raceway facility.

21 (b) The rebate available under this subparagraph shall be
22 limited to one project per raceway facility. If such a project
23 is undertaken, the owner or operator of the raceway facility
24 shall notify the department upon completion of the project.

25 (c) Notwithstanding the state sales tax imposed in section
26 423.2, a sales tax rebate issued pursuant to this subparagraph
27 shall not exceed the amounts remaining after the transfers
28 required under section 423.2, subsection 11, paragraph "b",
29 subparagraphs (1) through (6), have been made from the total
30 amount of sales tax for which the rebate is requested.

31 (d) Notwithstanding the state use tax imposed in section
32 423.5, a use tax rebate issued pursuant to this subparagraph
33 shall not exceed the amounts remaining after the transfers
34 required under section 423.43, subsection 1, have been made
35 from the total amount of use tax for which the rebate is

1 requested.

2 *c.* The rebate may be obtained only in the following amounts
3 and manner and only under the following conditions:

4 (1) For rebates pursuant to paragraph "b", subparagraph (1),
5 on forms furnished by the department within the time period
6 provided by the department by rule, which time period shall not
7 be longer than quarterly.

8 (2) For rebates pursuant to paragraph "b", subparagraph (2),
9 on forms furnished by the department within the time period
10 provided by the department by rule, but not more than one year
11 after the final settlement has been made.

12 (3) The owner or operator shall provide information as
13 deemed necessary by the department.

14 (4) The transactions for which sales or use tax was
15 collected and the rebate is sought occurred on or after January
16 1, 2015, but before January 1, 2025. However, the total amount
17 of rebates provided pursuant to this subsection shall not
18 exceed the lesser of the following amounts:

19 (a) Twenty-five percent of the project costs, as determined
20 by the department, if such a project is undertaken by the owner
21 or operator. For purposes of this subparagraph division,
22 "*project costs*" means costs incurred by the owner or operator
23 in connection with the planning, design, construction, and
24 installation of property that becomes an integral part of the
25 project under contract which project upon completion becomes
26 part of the raceway facility, and other costs incurred by
27 the owner or operator in connection with the project that
28 are customarily associated with the renovation, remodeling,
29 reconstruction, expansion, equipping, or improvement of
30 real property. Project costs shall be determined after the
31 department receives notification of completion of the project
32 pursuant to paragraph "b", subparagraph (2), subparagraph
33 division (b). However, if rebates cease because of a change of
34 control of the raceway facility as provided in paragraph "c",
35 subparagraph (5), project costs shall be determined as of the

1 date the change of control occurs.

2 (b) Two million dollars.

3 (5) Notwithstanding subparagraph (4), the rebate of sales
4 or use tax shall cease for transactions occurring on or after
5 the date of the change of control of the raceway facility.

6 (6) The raceway facility has not received or shall not
7 receive any grants under the community attraction and tourism
8 program pursuant to chapter 15F, subchapter II, or the vision
9 Iowa program pursuant to chapter 15F, subchapter III.

10 d. To assist the department in determining the amount of the
11 rebate, the following shall occur:

12 (1) For rebates pursuant to paragraph "b", subparagraph
13 (1), the owner or operator shall identify to the department
14 retailers located at the raceway facility who will be
15 collecting sales tax. The department shall verify such
16 identity and ensure that all proper permits have been issued.
17 For purposes of this subsection, advance ticket and admissions
18 sales shall be considered occurring at the raceway facility
19 regardless of where the transactions actually occur.

20 (2) For rebates pursuant to paragraph "b", subparagraph (2),
21 the contractor shall state under oath, on forms provided by
22 the department, the amount of such sales of tangible personal
23 property, or services furnished and used in the performance
24 of a contract, and upon which sales or use tax has been paid,
25 and shall file such forms with the owner or operator which has
26 made any written contract for performance by the contractor.
27 The forms shall be filed by the contractor with the owner or
28 operator before final settlement is made. Any contractor who
29 willfully makes a false report of tax paid under the provisions
30 of this subsection is guilty of a simple misdemeanor and in
31 addition shall be liable for the payment of the tax and any
32 applicable penalty and interest.

33 e. There is established within the state treasury under
34 the control of the department a raceway facility tax rebate
35 fund consisting of the amount of state sales tax revenues

1 transferred pursuant to section 423.2, subsection 11, paragraph
2 "b", subparagraph (7). An account is created within the
3 fund for each raceway facility meeting the qualifications of
4 this subsection. Moneys in the fund shall only be used to
5 provide rebates of state sales tax pursuant to paragraph "b",
6 subparagraph (1). The total amount of rebates paid from the
7 fund shall not exceed the amount specified in paragraph "c",
8 subparagraph (4), subparagraph division (a) or (b), whichever
9 is applicable. Any moneys in the fund which represent state
10 sales tax revenue for which the time period in paragraph "c" for
11 receiving a rebate has expired, or which otherwise represent
12 state sales tax revenue that has become ineligible for rebate
13 pursuant to this subsection shall immediately revert to the
14 general fund of the state.

15 f. Upon determining that the conditions and requirements
16 of this subsection and the department are met, the department
17 shall issue a warrant to the owner or operator in the amount
18 equal to the amount claimed and verified by the department.

19 g. This subsection is repealed June 30, 2025, or thirty
20 days following the date on which an amount of total rebates
21 specified in paragraph "c", subparagraph (4), subparagraph
22 division (a) or (b), whichever is applicable, has been provided
23 and no overpayment of rebates exists, or thirty days following
24 the date on which rebates cease as provided in paragraph
25 "c", subparagraph (5), and no overpayment of rebates exists,
26 whichever is earliest.

27 h. If the amount of rebates issued to an owner or operator
28 under this subsection exceeds the amount allowed under this
29 subsection, the department shall seek repayment of such excess
30 amount. The repayment of rebates pursuant to this paragraph
31 shall be considered a tax payment due and payable to the
32 department by any person who has received such rebates, and
33 the failure to make such a repayment may be treated by the
34 department in the same manner as a failure to pay the tax shown
35 due or required to be shown due with the filing of a return

1 or deposit form. In addition, the amount of rebates required
 2 to be repaid shall constitute a lien upon the real property
 3 that comprises the raceway facility that was the subject of
 4 the rebate regardless of the identity of the owner or operator
 5 of said raceway facility, and the liability shall be collected
 6 in the same manner as provided in section 422.26. Amounts
 7 required to be repaid pursuant to this paragraph shall accrue
 8 interest at the rate in effect under section 421.7 from the
 9 date of the warrant issued under paragraph "f".

10 *i.* The director shall adopt rules for the administration of
 11 this subsection.

12 EXPLANATION

13 The inclusion of this explanation does not constitute agreement with
 14 the explanation's substance by the members of the general assembly.

15 This bill authorizes the department of revenue to rebate
 16 sales and use tax for certain transactions related to a
 17 raceway facility. To be eligible for the rebate the raceway
 18 facility must be located on fairgrounds, and must be located
 19 in a city with a population between 7,000 and 7,500, which
 20 city is located in a county with a population between 33,000
 21 and 33,450. In addition, the raceway facility must have been
 22 placed in service before the effective date of the bill.

23 The person eligible to receive the rebate is the owner or
 24 operator of the raceway facility. "Owner or operator" means
 25 a fair that is the owner or operator of a raceway facility and
 26 is the promoter of races. "Fair" means the same as defined
 27 in Code section 174.1 and generally means an organization
 28 incorporated under the laws of Iowa that holds fair events and
 29 meets certain property ownership requirements.

30 The rebate applies to two types of transactions. One, the
 31 state sales tax collected upon tangible personal property or
 32 services furnished to purchasers at the raceway facility. Two,
 33 the state sales or use tax paid in fulfillment of a written
 34 contract with the owner or operator if the property becomes an
 35 integral part of the project under contract and upon completion

1 of the project becomes part of the raceway facility. This
2 rebate is limited to one project per raceway facility. The
3 rebates only apply to transactions occurring on or after
4 January 1, 2015, but before January 1, 2025, and are limited
5 to a maximum of \$2 million or an amount equal to 25 percent of
6 the project costs if such a project is undertaken, whichever is
7 less. "Project costs" is defined in the bill.

8 With regard to the rebate of sales tax revenues collected
9 upon tangible personal property or services furnished to
10 purchasers at the raceway facility, the bill creates a raceway
11 facility tax rebate fund consisting of the remaining amount
12 of state sales tax revenue from these transactions after
13 subtracting the local option sales tax under Code chapter 423B,
14 the natural resources and outdoor recreation trust transfer
15 pursuant to Article VII, section 10, of the Constitution of
16 the State of Iowa if applicable, the secure an advanced vision
17 for education fund transfer pursuant to Code section 423F.2,
18 and any transfers required, if applicable, to a baseball and
19 softball tournament facility and movie site sales tax rebate
20 fund, flood mitigation sales tax increment fund, or Iowa
21 reinvestment Act sales tax increment fund. Rebates from these
22 transactions are paid only from this rebate fund, are limited
23 to the amounts in the fund, and are made on forms furnished by
24 the department of revenue.

25 With regard to the rebate of sales or use tax paid in
26 fulfillment of a written contract with the owner or operator,
27 the bill specifies that the rebate of sales tax shall not
28 exceed the amount remaining after the transfers listed above
29 have been subtracted from the total amount of the sales tax
30 rebate requested, as applicable. The bill also specifies that
31 the rebate of use tax shall not exceed the amount remaining
32 after subtracting the local option taxes under Code chapter
33 423B and the secure an advanced vision for education fund
34 transfer pursuant to Code section 423F.2. A contractor
35 that has a written contract with the owner or operator is

1 required to provide information under oath to the owner or
2 operator regarding the amount of property or services used in
3 performance of the contract upon which sales or use tax has
4 been paid. A contractor who willfully makes a false report is
5 guilty of a simple misdemeanor and is liable for the payment
6 of the tax and any applicable penalty and interest. A simple
7 misdemeanor is punishable by confinement for no more than
8 30 days or a fine of at least \$65 but not more than \$625 or
9 by both. Rebates from these transactions are made on forms
10 furnished by the department of revenue.

11 The rebate ceases if control of the facility changes. A
12 change in control will occur when the fair that is the owner
13 or operator on the effective date of the bill ceases to own a
14 majority of the equity interests in the raceway facility. The
15 rebate provision is repealed June 30, 2025, or 30 days after
16 a total of \$2 million or an amount equal to 25 percent of the
17 project costs if such a project is undertaken, whichever is
18 less, have been rebated, or 30 days following the change of
19 control causing the rebates to cease, whichever occurs earlier.

20 If the amount of rebates issued exceed the amount of
21 rebates allowed under the bill, the department of revenue
22 shall seek repayment from the person who received the excess
23 rebates in the same manner as it does other tax payments. The
24 excess rebates shall also be a lien on the real property that
25 comprises the raceway facility, regardless of the identity of
26 the owner or operator.